

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 05/3/01?
- b. The request was received on 01/11/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 01/29/02
 - b. HCFA's
 - c. EOB
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC 60 and Response to a Request for Dispute Resolution dated 02/28/02
 - b. Medical Records
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (4), the carrier's Austin representative received the dispute on 02/14/02. The response from the insurance carrier was received in the Division on 02/28/02. Therefore, the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor:

“The expected out come of this issue is that we feel the claims should be paid in full. In accordance with DME Ground Rules Section IX c states invoices should be billed at the provider's usual and customary rate. Reimbursement shall be an amount pre-negotiated

between the provider and carrier or if no pre-negotiated amount, the fair and reasonable rate. We have billed the Carrier our usual and customary rate and have provided the Carrier with examples of audit sheets and/or copies of checks where other carriers in this area have established the \$159.90 for the turtle pack as a fair and reasonable amounts as the Commission has not established a MAR for this procedure. We have also provided a copy of the suggested retail price list from the manufacturer.” The Provider is seeking additional reimbursement in the amount of \$132.40 for the date of service 05/30/01.

2. Respondent:

“EOBs do not establish or identify payment based on a consistent method as required by Rule 133.304(i). The requester attempts to establish a fair and reasonable rate by using copies of EOBs, none of which constituted evidence of a pattern substantiating fair and reasonable or that the amounts paid by other carriers was determined in a systematically and consistent method. However, the EOBs themselves do not demonstrate how the payors determined fair and reasonable reimbursement as required by 133.304(i). In addition, the requester’s offering of EOBs does not refute that the Carrier has developed and consistently applied a methodology to determine fair and reasonable. Consequently, the requester’s use of unexplained, unqualified EOBs is inappropriate for the purpose of establishing fair and reasonable as the EOBs themselves do not show the method used to determine reimbursement.” The Carrier denies additional reimbursement as M-“THE REIMBURSEMENT FOR THE SERVICE RENDERED HAS BEEN DETERMINED TO BE FAIR AND REASONABLE BASED ON BILLING AND PAYMENT RESEARCH AND IS IN ACCORDANCE WITH LABOR CODE 413.011 (B).”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible is 05/30/01.
2. The Provider billed the Carrier \$159.90 for the date of service 05/30/01.
3. The Carrier paid \$27.50 for the disputed date of service 05/30/01.
4. The Provider is seeking additional payment in the amount of \$132.40.

V. RATIONALE

Per the Texas Worker’s Compensation Act and Rules §413.011:

“(d) Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

Per the UB-92 submitted in the original packet, the Requestor billed the ICD-9 code of 847.2 which is Sprain Lumbar region. The medical reports indicate that the services were performed. EOBs were submitted from other insurance carriers showing similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf were submitted to demonstrate payments for fair and reasonable. Documentation is sufficient to determine if the charge of the Requestor is fair and reasonable. This does conform with the criteria in Sec. 413.011 (d). Therefore, additional reimbursement **is** recommended in the amount of **\$132.40**.

VI. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$132.40 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 12th day of April, 2002.

Michael Bucklin, LVN
Medical Dispute Resolution Officer
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.